BEFORE THE HIGH COURT OF CHHATTISGARH

AT BILASPUR

W.P. 690 104

Vikrant Gujral
Ex-Managing Director
Steel Authority of India Limited
Bhilai Steel Plant
Bhilai. ... Petitioner

Versus

1. State Industrial Court
Raipur, (C.G.)

2. Judicial Magistrate Ist Class
Labour Court, Durg

3. State,
Through-The Labour Inspector
Appointed under payment of Bonus Act
Durg (C.G.)
Office of the Asstt. Labour Commissioner
Stadium Building, Durg, (C.G) ... Respondents

W.P. No. /2003.

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT, ORDER OR DIRECTION ETC.

XI-HC-22

(28)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No. 690/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

01.10.2004

Shri P. Diwakar with Miss Pritha Ghosal, counsel for the petitioner.

Shri Utkarsh Verma, Panel Lawyer for the State.

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India questioning the legality, propriety and correctness of the order dated 26.07.2001 (Annexure P-1) passed by learned Judicial Magistrate First Class Labour Court, Durg whereby the application of the petitioner for discharging him from the charges under Sections 19(1)(b), 27(2)(a) & 27(4) read with Section 28 of Bonus Act 1965 was rejected, against which the petitioner herein preferred a revision petition before learned Industrial Court, Raipur, which was also came to be dismissed by learned Industrial Court vide order dated 07.11.2003 (Annexure P-2).

Brief facts leading to filing of this petition are that the petitioner was Managing Director of Bhilai Steel Plant, Bhilai which is a unit of Steel Authority of India Limited, a Government Company registered under the Companies Act, 1956. It seems that some contract was awarded to one contractor namely A. Sen and in order to execute the work he engaged some labourers. As per the provisions of Bonus Act, 1965 said contractor was required to pay bonus to the labourers engaged by him for the year 1996-97, but he failed to make the payment of bonus to the labourers and also failed to submit the Form A, B, & C regarding the details of payment of bonus to the labourers. Accordingly, a show cause notice was issued to the contractor for showing papers regarding the payment of the bonus, but he failed to produce the documents showing the payment of bonus to the labourers, therefore,

29

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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the Labour Inspector filed a complaint against the said contractor namely A. Sen and also against the present petitioner, who was Managing Director of Bhilai Steel Plant at the relevant time, for commission of offences punishable under Sections 19(1)(b), 27(2)(a) and 27(4) read with Section 28 of Bonus Act 1965. Thereafter, learned Magistrate, Labour Court took the cognizance of the above said offences against both the accused persons. Contractor A. Sen pleaded guilty of said offences and sentence of fine of Rs.1,000/- was imposed on him, that was already deposited by him.

I have heard learned counsel for the parties.

Learned counsel for the petitioner submitted that the contents of the complaint do not disclose any offence against the petitioner as the contractor namely A. Sen who engaged the labourers was responsible for the payment of bonus not the present petitioner. Counsel further submits that in the complaint no allegation against the petitioner has been levelled. Moreover, the main accused i.e. the contractor has been pleaded guilty and sentence of fine has been imposed on him, which he has already deposited, therefore the order taking cognizance of the said offences against the present petitioner be quashed.

On the other hand, learned Panel Lawyer opposed the writ petition and argued that under sub-section (14) of Section 2 of C.G. Industrial Relations Act, 1960 the word 'employer' is defined. As per provisions of this section 'employer' includes a person owner of any undertaking in the course of or for the purpose of conducting the undertaking contracts with any person for the execution by or under the contractor of the whole or any party of any work which is ordinarily part of the undertaking, the owner of the undertaking. Therefore, the owner

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

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of the undertaking where the work is being executed is also comes under the definition of the 'employer'. He further argued that as per the provision of Section 19(1)(b) of the Bonus Act, 1965 the employer is duty bound to pay the bonus to the employee and contravention of the same is punishable under Section 28 of the Act.

Learned counsel for the petitioner did not dispute that the accused/petitioner at the relevant time was Managing Director in Bhilai Steel Plant and the work in question was being executed by contractor A. Sen in the Bhilai Steel Plant, as such in the capacity of Managing Director, Bhilai Steel Plant, the petitioner was the employer and he was equally liable to make the payment of bonus to the labourers, which was admittedly not made. Therefore, at this stage, in view of the above provisions of law, prima-facie offence against the petitioner is made out.

In the result, I am of the opinion that petitioner has not been able to make out a case for invoking the jurisdiction under Article 226/227 of the Constitution of India for quashing the proceedings before the Labour Court and the petition of the petitioner is liable to be dismissed and accordingly, it is dismissed.

Consequently, M.W.P. No.615/04 & I.A. No.1533/04 also stand dismissed.

Sd/-
L.C.BHADOO
Judge

Roshan/Padma